

FUNDAMENTALS OF TRIAL ADVOCACY COURSE

September 30 – October 4, 2019

Phoenix, Arizona



CASE ANALYSIS

Presented by:


Dana E. Owens

Deputy Yavapai County Attorney
Yavapai County Attorney's Office

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
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Phoenix, Arizona 85015

ELIZABETH BURTON ORTIZ
EXECUTIVE DIRECTOR



TRIAL APPROACH

Conquering Your Case Before Trial Begins

Dana Owens
Deputy Yavapai County Attorney

Mindset

- What is your goal?
 - Get the Bad Guy / Girl
 - Find the Truth
 - Do Justice

Mindset

- **What are potential barriers?**
 - **Workload**
 - **Training Issues**
 - **Bias**
 - **Others?**

Reviewing the Case

- *Read / Review EVERYTHING:*
- Reports
- Audio / Video Recordings
- Photographs
- Witness Statements
- Probable Cause / Booking paperwork

☐ VERDE VALLEY JUSTICE COURT - 928-632-5120
 10 South 4th Street, Cottonwood, AZ 86302
☐ COTTONWOOD MUNICIPAL COURT - 928-634-7557
 824 North Main Street, Cottonwood, AZ 86305
☐ SEDONA MUNICIPAL COURT - 928-282-1125
 102 Hadaway Lane, Sedona, AZ 86330
☐ CLARKDALE MAGISTRATE COURT - 928-434-1811
 40 North 1st Street, Verde, AZ 86345
☐ GROVE MAGISTRATE COURT - 928-334-7042
 300 Clark Street, Jerome, AZ 86331
☐ CAMO VERDE MUN. C. PA. CO. ST. - 928-667-6637
 478 South Main Street, Camp Verde, AZ 86011
☐ MOORE JUSTICE COURT - 928-332-7342
 1280 Central Avenue, Lavee, AZ 86349

☐ CANNONVILLE JUSTICE COURT - 928-632-7018
 1240 Central Avenue, Moen, AZ 86339
☐ PRESCOTT JUSTICE COURT - 928-771-3336
 1000 North Main Street, Prescott, AZ 86301
☐ PRESCOTT VALLEY MAGISTRATE COURT - 928-772-6777
 150 East Gayle Drive, Prescott Valley, AZ 86301
☐ CHINO VALLEY MUNICIPAL COURT - 928-736-4514
 1088 North Main Street, Chino Valley, AZ 86329
☐ GADSDEN JUSTICE COURT - 928-814-7941
 100 Main Street, Gadsden, AZ 86327
☐ YARNALL JUSTICE COURT - 928-925-3518
 22291 Leaveway, Yarnall, AZ 85562
☐ SHELIGMAN JUSTICE COURT - 928-722-3237
 222 North Main Street, Seligman, AZ 86337

STATE OF ARIZONA,

vs. Sara Szwed

CASE NO. [REDACTED]

RELEASE QUESTIONNAIRE

Defendant:

HOOKING NO. [REDACTED]

Part B

INFORMATION TO BE COMPLETED BY THE DEFENDANT OR BY THE MAGISTRATE - instructions to the Defendant: The answers you give to the following questions will be used by the Court to determine the conditions of your release at this time. You are not required to answer any question if you feel the answer might be harmful to you. Your answers will be checked against the information supplied by the police, and with the references you give on the form. Any discrepancies may result in higher bail or harsher conditions of release. Any information you give may be used against you in this or any other matter.

GENERAL

1. Full name: Sara Szwed
2. Sex: ☒ M ☐ F Race: Polish Age: 25 Place of Birth: City: Poland State: Poland
3. Present Citizenship: United States If not a U.S. citizen, how long have you been in this country? 2 years
4. Present residence address: 1800 N. Main St. Apt. 101 City: Prescott State: AZ Zip Code: 86301
5. Length of time at present residence: 1 day Where else have you lived in the past year and for how long? None
6. Current mailing address: 1800 N. Main St. Apt. 101 City: Prescott State: AZ Zip Code: 86301 Phone: (928) 771-3336

FAMILY

7. Are you married? ☐ Yes ☒ No Are you living with your spouse? ☐ Yes ☒ No
8. How many other persons (including your children) are living with you? 0
9. How much do you contribute to their support? \$0
10. Do you have regular contact with any other relatives? ☐ Yes ☒ No If yes, list the names and your relationship: None

WORK

11. Are you employed? ☐ Yes ☒ No If not, what is your main source of income? Nothing
12. Employer's name: Michael Brown
13. Employer's address: 1800 N. Main St. Apt. 101
14. What is the nature of your job? Landscaping

CRIMINAL

15. Do you have any previous criminal convictions? ☐ Yes ☒ No If yes, explain: None
16. Have you ever been arrested and released on bail (or other conditions) pending trial? ☒ Yes ☐ No
17. Did you ever fail to appear as required? ☒ Yes ☐ No If yes, explain: Yes, on 11/11/01

18. Does this alleged incident involve any member of your household? ☐ Yes ☒ No If yes, is the person ☐ the victim ☐ a co-defendant ☐ both
19. Are you welcome to return home? ☐ Yes ☒ No If not, where will you go if released today? None

20. Is there any organization, church, or person who might agree to supervise you and be responsible for your return to court as required? ☒ Yes ☐ No If yes, (Name, Address, Phone): None

21. Are there any other matters (such as your physical or mental health, use of any mind altering substances, or illness in family) which you feel the Court should consider in making its decision? ☒ Yes ☐ No If yes, explain: On 11/11/01, as best as I could, I tried to

22. Is there any friend, relative, neighbor, minister, or other person who can be called as a reference for this information? ☐ Yes ☒ No If yes, (Name & Phone): None

711713-010

Sara Szwed

<p> <input type="checkbox"/> YUMA VALLEY JUSTICE COURT - 928-839-5120 1200 N. 1st Street, Colton, AZ 85307 <input type="checkbox"/> COTTONWOOD MUNICIPAL COURT - 928-834-7537 824 N. Main Street, Cottonwood, AZ 86305 <input type="checkbox"/> SEDONA MUNICIPAL COURT - 928-282-1120 102 Madrunner Lane, Sedona, AZ 86308 <input type="checkbox"/> CHANDLER MAGISTRATE COURT - 480-948-1000 4200 N. 1st Street, Chandler, AZ 85226 <input type="checkbox"/> GILBERT MAGISTRATE COURT - 480-834-7040 300 Clark Street, Gilbert, AZ 85234 <input type="checkbox"/> MESA VERDE MUN. C.P.A. CO. - 505-667-6600 478 South Karlov Road, Camp Verde, AZ 85922 <input type="checkbox"/> MOUNTAIN JUSTICE CO. - 928-832-7342 2800 Central Expressway, Coconino, AZ 86301 </p>	<p> <input type="checkbox"/> LEBWEEK MAGISTRATE COURT - 928-632-0088 12400 Central Avenue, Yuma, AZ 85369 <input type="checkbox"/> PRESCOTT JUSTICE/CITY COURT - 928-771-3336 Yavapai County Courthouse, 100 N. Center, Prescott, AZ 86301 <input type="checkbox"/> PRESCOTT VALLEY MAGISTRATE COURT - 928-772-6777 150 East Oak Circle, Prescott Valley, AZ 86301 <input type="checkbox"/> CHINO VALLEY MAG. COURT - 928-566-8554 1982 North Road One West, Chino Valley, AZ 86329 <input type="checkbox"/> BAGDAD JUSTICE COURT - 928-811-9141 100 Main Street, Bagdad, AZ 86302 <input type="checkbox"/> YARNALL JUSTICE COURT - 928-875-3338 32291 Lanesway, Yarnall, AZ 85562 <input type="checkbox"/> SHILIGMAN JUSTICE COURT - 928-822-2227 200 North 1st Street, Shiligman, AZ 86301 </p>
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STATE OF ARIZONA

vs. Sara Serrano

Defendant.

CASE NO. [REDACTED]

BOOKING NO. [REDACTED]

RELEASE QUESTIONNAIRE

Part B

INFORMATION TO BE COMPLETED BY THE DEFENDANT OR BY THE MAGISTRATE - Instructions to the Defendant: The answers you give to the following questions will be used by the Court to determine the conditions of your release at this time. You are not

Are there any other matters (such as your physical or mental health, use of any mind-altering substance, or family) which you feel the Court should consider in making its decision? ☒ Yes ☐ No If yes,

I'm crazy as batshit and should enjoy it

Is there any friend, relative, neighbor, minister, or other person who can be called as a reference for you? ☐ Yes ☒ No If yes: (Name & Phone)

[REDACTED]

1. Are you employed? ☐ Yes ☒ No If no, what is your source of income? None

2. Employer's name: Michael Brown

3. Employer's address: 116 South 1st

4. What is the nature of your job? Working as a bartender

5. Do you have any previous criminal convictions? ☐ Yes ☒ No If yes, explain: _____

6. Have you ever been arrested and released on bail (or other conditions) pending trial? ☒ Yes ☐ No

7. Did you ever fail to appear as required? ☒ Yes ☐ No If yes, explain: Got caught

8. Does this alleged incident involve any member of your household? ☐ Yes ☒ No If yes, is the person ☐ the victim ☐ a co-defendant ☒ both

9. Are you welcome to return home? ☐ Yes ☒ No If not, where will you go if released today? _____

10. Is there any organization, church, or person who might agree to supervise you and be responsible for your return to court as required? ☒ Yes ☐ No If yes: (Name, Address, Phone) _____

11. Are there any other matters (such as your physical or mental health, use of any mind-altering substance, or illness in family) which you feel the Court should consider in making its decision? ☒ Yes ☐ No If yes, explain: I'm crazy as batshit and should enjoy it

12. Is there any friend, relative, neighbor, minister, or other person who can be called as a reference for this information? ☐ Yes ☒ No If yes: (Name & Phone) [REDACTED]

7/17/12 10:10

[REDACTED]

Evaluating Your Case

- Can you prove your case beyond a reasonable doubt with the evidence you have?
- If not, can the officer/deputy do follow up investigation?
- Can you do additional follow up?
 - Should you?

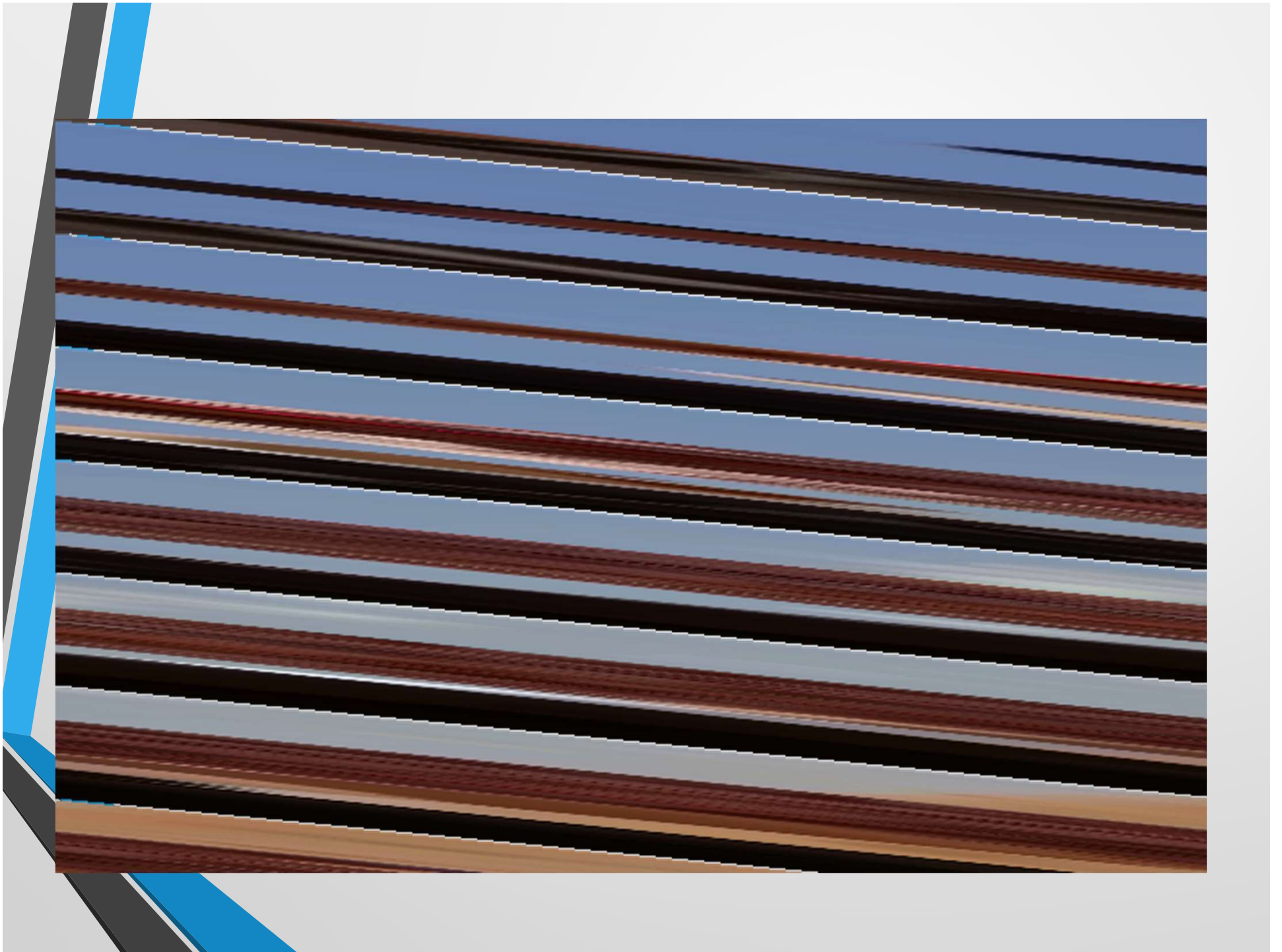
Evaluating Your Case

- Are your witnesses available? Are they cooperative?
- Is your case contingent on lab analysis? Expert witness?
- What about your victim?
- Prior convictions?
- Is case charged properly?

What Now?

Talk to
the defense
attorney.





What Now?

- Offer a plea agreement
- Dismiss / continue pending further investigation
- Dismiss because insufficient evidence / No Reasonable Likelihood of Conviction at Trial
- Set matter for trial

Prosecution Standard

- *State v. Gomez*, 212 Ariz. 55, 59, 127 P.3d 873, 877 (2006) (“Indictments can be dismissed for various reasons, including a prosecutor's determination that the person charged did not in fact commit the crime or—as this case illustrates—that there is no reasonable likelihood of conviction”).
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- See Kenneth J. Melilli, Prosecutorial Discretion in an Adversary System, 1992 BYU L. Rev. 669, 684 (1992) (“[V]irtually all prosecutors require, at least at the time of trial, that the government's case present a reasonable likelihood of conviction.”).

Pretrial Motions

- *Defensive Pleadings*
 - Suppression
 - Remand
 - Dismiss
 - Motion in Limine
 - Notice of a specific issue or action

Dr. W. K. R. R. R.



Pretrial Motions

- *Offensive Pleadings*
 - Notice pleading: Allegations of priors / on probation / on release, 2nd DUI, etc.
 - Motions in Limine
 - Notice of a specific issue or action (seeking jail time)

Pretrial Motions

- Don't reinvent the wheel
 - Office motion bank / library
 - APAAC www.apaacz.gov
 - NDAA www.ndaa.org
 - Prosecutor's Encyclopedia
www.nypti.org

Pretrial Interviews

- Who attends?
- How recorded?
- Prepping for an IV
- Objections during interviews
- Problems/ Issues during interviews
- Evidence viewing

Trial Preparation

- Proposed Jury Instructions
- Final Witness / Exhibit Lists
- Review Juror List, if available
- Confirm subpoenas
- Prepare trial notebook
- Visual Aids
- Prepare witness outlines



Theme

Do you need one?

Presentation

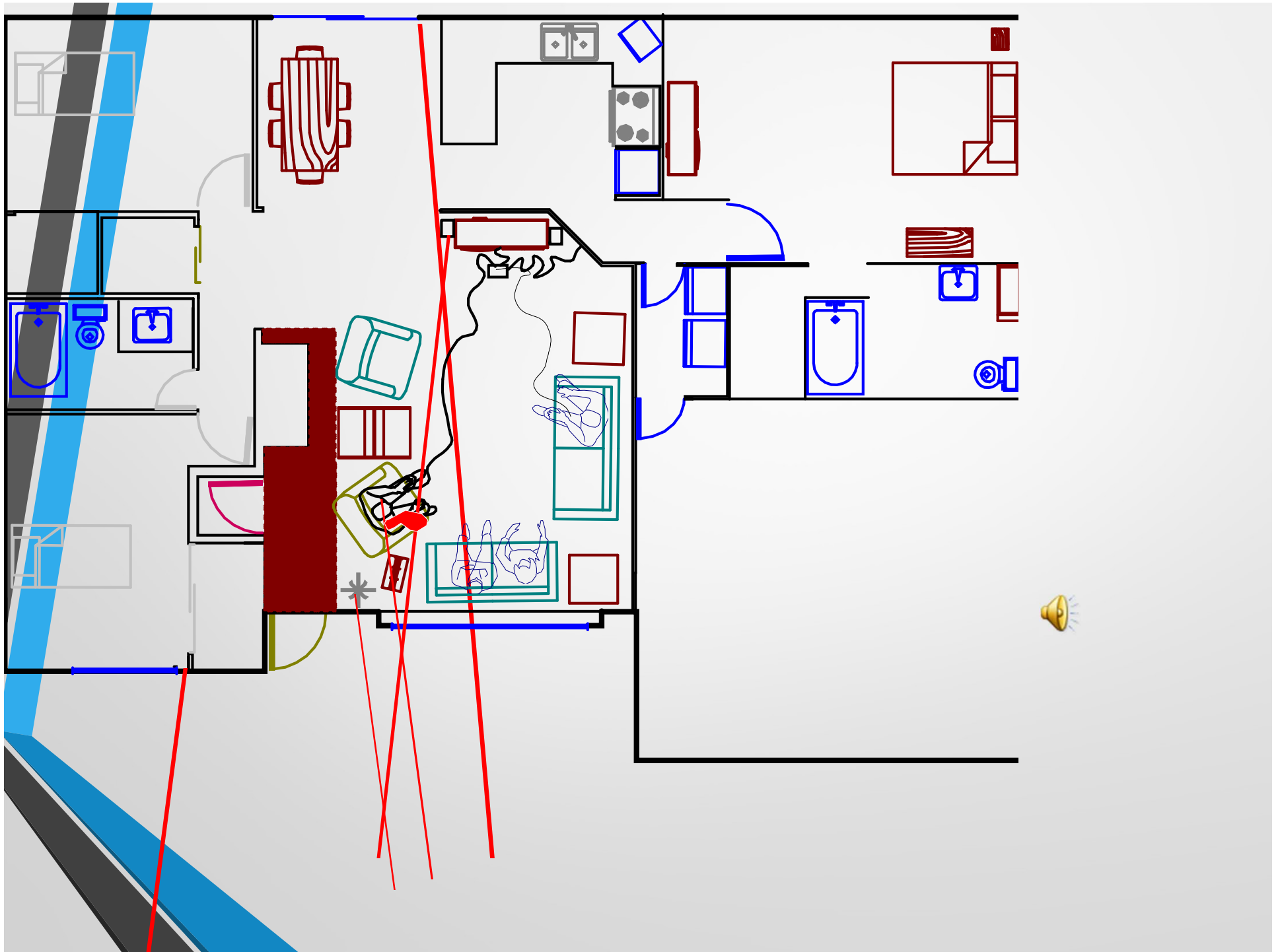


Presentation

- Evidence
 - Photos
 - Weapons
 - Drugs
 - Documents
 - 911 calls
 - Jail calls

Presentation

- Different learners / different impact
- Pay attention to juror limitations
- Consider courtroom limitations
- Consider filing notices to court and defense regarding specific evidence



After Trial

- Debrief
- Evaluate
- Follow-up
- Prepare for next time!



After Trial

Relax!

Remember why we do this.

Don't neglect yourself—

Food

Exercise

FUN!



Thanks for All You Do!

Dana E. Owens

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